

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Hanley	Team: Squad #1	CCRB Case #: 201803849	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 04/29/2018 5:55 PM	Location of Incident: West 155th Street and 8th Avenue	Precinct: 32	18 Mo. SOL 10/29/2019	EO SOL 10/29/2019	
Date/Time CV Reported Wed, 05/16/2018 9:33 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 05/16/2018 9:33 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Carlos Pimentel	07608	953255	PSA 6
2. POM Frank Gashi	06497	955942	PSA 6
3. POM Carlos Thomas	21295	952290	PSA 6

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Eddy Soriano	09336	953431	PSA 6

Officer(s)	Allegation	Investigator Recommendation
A.POM Carlos Pimentel	Abuse: PO Carlos Pimentel interfered with § 87(2)(b)'s use of a recording device.	
B.POM Frank Gashi	Abuse: PO Frank Gashi interfered with § 87(2)(b)'s use of a recording device.	
C.POM Carlos Thomas	Abuse: PO Carlos Thomas interfered with § 87(2)(b)'s use of a recording device.	
D.POM Carlos Pimentel	Off. Language: PO Carlos Pimentel made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	

Case Summary

On May 16, 2018, § 87(2)(b) filed this complaint online with the CCRB on behalf of himself and his father, § 87(2)(b).

On April 29, 2018, at approximately 5:55 PM, in the vicinity of West 155th Street and 8th Avenue in Manhattan, PO Carlos Pimentel and PO Frank Gashi of PSA 6 interfered with § 87(2)(b)'s use of a recording device (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). PO Carlos Thomas of PSA 6 interfered with § 87(2)(b)'s use of a recording device (**Allegation C: Abuse of Authority**, § 87(2)(g)). PO Carlos Pimentel allegedly made remarks to § 87(2)(b) based upon the gender of § 87(2)(b) (**Allegation D: Offensive Language**, § 87(2)(g)). § 87(2)(b) was arrested during this incident for § 87(2)(b). The investigation obtained cell phone footage for this incident from § 87(2)(b) surveillance footage from Fine Fare Supermarkets on 2927 8th Avenue in Manhattan, NYCHA, and TARU. The surveillance cameras did not capture the allegations (see Board Reviews 08-12 and 20 for footage, Board Review 13 for written summary).

Findings and Recommendations

Allegation (A) Abuse of Authority: PO Carlos Pimentel interfered with § 87(2)(b)'s use of a recording device.

Allegation (B) Abuse of Authority: PO Frank Gashi interfered with § 87(2)(b)'s use of a recording device.

It is undisputed that PO Gashi and PO Thomas, assigned to Robbery Auto stopped § 87(2)(b) for switching lanes without signaling. Also present during this stop was § 87(2)(b)'s father, § 87(2)(b) in the front passenger seat, and § 87(2)(b)'s girlfriend, § 87(2)(b) in the back seat. PO Pimentel and PO Soriano, the other PSA6 Robbery Auto unit responded and backed up PO Gashi and PO Thomas. § 87(2)(b) asked why he was being pulled over and PO Gashi explained that he would tell him once § 87(2)(b) provided identification. § 87(2)(b) began recording the incident on his cell phone, holding his cell phone in the car and by his lap. PO Pimentel told § 87(2)(b) to put his phone away. § 87(2)(b) provided identification and PO Gashi and PO Pimentel requested he step out of the vehicle. PO Pimentel and PO Gashi instructed § 87(2)(b) to put his phone away. When § 87(2)(b) stated he did not have to, PO Gashi told him he could not record but the passengers could. § 87(2)(b) gave the phone to § 87(2)(b) and she continued to record the interaction.

§ 87(2)(b)'s cell phone video shows PO Pimentel state "Listen, we are dealing with a car stop so get off the phone" (Board Review 08). § 87(2)(b) provides identification and asks why he is being stopped. PO Gashi and PO Pimentel ask § 87(2)(b) to step out of the vehicle. In the second video, PO Pimentel and PO Gashi ask § 87(2)(b) to step out of the vehicle (Board Review 09). § 87(2)(b) steps out of the vehicle with his phone still out and PO Pimentel states, "Put your phone down, I'm dealing with you." § 87(2)(b) states "I don't have to put my phone down, I have the right to record." PO Gashi states, "They (the other occupants in the vehicle) can record, you can't." § 87(2)(b) hands the cell phone to § 87(2)(b) and the recording ends.



§ 87(2)(b) video #1, 1 minute 4 seconds.mp4



§ 87(2)(b) video #2, 30 seconds.mp4

According to Patrol Guide Procedure 203-29, “the right to observe and/or record police action can be limited for reasons such as the safety of officers or other members of the public, or when a violation of the law is committed by the individual (s) who are observing/videotaping” (Board Review 14).

§ 87(2)(g)

Allegation (C) Abuse of Authority: PO Carlos Thomas interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) provided a phone statement but the CCRB was unable to schedule him for an interview despite multiple contact attempts (see Board Review 19 for detailed IA).

§ 87(2)(b) and officers did not corroborated § 87(2)(b)'s allegation.

§ 87(2)(b)'s cell phone footage captures § 87(2)(b) (not visible) state that, “He (referring to an officer) just told me to turn my phone off. Excuse me officer, Gashi...” However, cell phone footage does not capture any officer instruct § 87(2)(b) to put away his cell phone.

§ 87(2)(g)

Allegation (D) Offensive Language: PO Carlos Pimentel made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

§ 87(2)(b) stated that while speaking to officers in his vehicle, he told PO Pimentel there was “No reason to be an asshole” (Board Review 01). PO Pimentel responded by stating that § 87(2)(b) was a “bitch” or was “acting like a bitch.”

§ 87(2)(b) did not recall officers refer to § 87(2)(b) as a “bitch” during the incident although he stated the officers were disrespectful and used profanity” (Board Review 02).

§ 87(2)(b) provided a brief phone statement regarding the incident but did not provide testimony as to this allegation and the investigation was unable to contact her after her phone statement for follow up (Board Review 03).

PO Pimentel denied calling § 87(2)(b) a bitch or using the term bitch at any point during this incident (Board Review 05).

PO Soriano and PO Thomas stated that they did not hear any officer refer to § 87(2)(b) as a “bitch” or use the term “bitch” during the incident (Board Review 06 and 07). PO Soriano did not recall any officer using the word “bitch” during the incident (Board Review 04).

Video footage does not capture any officer using profanity.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 17)

§ 87(2)(b)

- PO Carlos Pimentel has been a member of service for six years and has been the subject in six prior CCRB complaints and 14 allegations, of which two were substantiated:
 - CCRB 201603576 involved a substantiated allegation of a stop against PO Pimentel. The Board recommended formalized training and the NYPD imposed formalized training.
 - CCRB 201606171 involved a substantiated allegation of a search of a person against PO Pimentel. The Board recommended Command Level Instructions and the NYPD imposed no disciplinary action.
- PO Thomas Gashi has been a member of service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Carlos Thomas has been a member of service for six years and has been the subject in two prior CCRB complaints and three allegations, none of which were substantiated. § 87(2)(b)

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 18, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 15).

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 1

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date